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U.S.

061693 2007

No. OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

MAHABIR AND SHELLIELLE NANAN

Petitioner(s)

VS.

STATE FARM FIRE & CASUALTY COMPANY

Respondent(s)

On Petition For Writ Of Certiorari
To The Supreme Court of Georgia

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Whether there can be a valid legal determination, drastic as dismissal with prejudice, in the absence of proof evidence, in instances where a trial court disobeyed the legal essential regulations, overriding such decision, when such authority, requires the existence of substantiation in the preponderance.

2. Whether trial court judge and Respondent counsel's conduct towards Petitioners at the July 18th 2005 motion hearing, which was the subject matter of the proceeding, abridges Petitioners first, fourteenth amendment freedom to the constitution of the United States and the universal declaration of human rights.

3. Whether the inappropriate acts portrayed by Respondents counsel, Appellate Court clerk, violated the code of professional conduct, also constituting perjury, intolerable on the basis such acts committed at the hands of officials sworn to uphold the laws of this state.

4. Whether the trial court dismissal of Petitioners law-suit, appellate court's remand, re-docket, dismissal, of Petitioners appeal case herein. in statutory language, fatally defective to the commands of the constitution of the United States.

5. Whether Supreme Court of Georgia declination of intervention to the concerns, gravity, of Petitioners circumstance, on these grounds consistent with the provisions of law, in the legal and constitutional sense.

6. Whether the state of Georgia decisions, consistent with the first and fourteenth amendment to the constitution of the United States, utilize Ad Hoc procedures to enjoin dissemination of presumptively protect fourteenth amendment freedom where there is statutory authoritative decision authorized appropriate procedural safeguards.

7. Whether trial court erred in failing to oblige Respondents to meet the burden of proof, dismissing Petitioners law-suit with prejudice, despite Petitioners compliance with the court's legal orders.

8. Whether the illegitimate perfection of fictitious court orders at the appellate courts level prohibited as a matter of law.

9. Whether trial judge legally authorized to render dismissal decision in the presence of a pending motion of recusal, in cases where the law prohibits his ability to act upon the merit of a case, until final determination is obtained from another legal authority.

PARTIES TO THE PROCEEDINGS

Pursuant to Supreme Court Rule 14.1, Petitioners states that all parties to the proceedings in the court whose judgment is sought to be reviewed are listed in the caption.

RULE 29.6 STATEMENT

There is no corporate disclosure statement to include as Petitioners are not corporation.

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PETITION FOR A WRIT OF CERTIORARI

Mahabir and Shellielle Nanan, Petitioners herein, pray that a Writ of Certiorari issue to review the judgment of Supreme Court of Georgia in this case on 02-05-07.

OPINION BELOW

The Cobb County state court herein, dismissed Petitioner's lawsuit with prejudice on 08-25-2005 for alleged failures to attend deposition and home inspection ordered by the court. Petitioner's respectfully affirmed; dismissal was un-lawful due to Petitioners compliance with court orders and further affirmed, Petitioners were deposed by lead counsel for State Farm Fire & Casualty, Mr. Geno Montoya, of Swift, Currie, McGhee & Hiers, law- firm whom in violation of the law, deposed both petitioners at the deposition, while concealed deposition transcript, filing false pleadings with the court, swearing falsely under oath thus obtaining dismissal against Petitioners by corrupt means. Furthermore, at the time dismissal was rendered, a "motion of recusal/ disqualification" was pending against the presiding judge for his involvement in the wrongful violation of Petitioners constitutional rights during a motion hearing held on 07- 18- 05. In defiance of the law he was affirmed to preserve, the honorable judge Darden violated the entire recusal procedures implemented under Uniform Superior Court Rules 25, 25.1, 25.2, 25.3, and 25. 4.

The pertinent provisions of Rule 25.3 requires the presiding judge to "temporarily cease to act upon the merits of the case', allowing another judge to hear the recusal motion," meaning that, before said

judge could continue to govern the proceedings, or to exercised legal authority to render any further decisions on the merit of the case, the law requires, a decision on the recusal motion exceeding any further rulings. The contrariness surrounding this matter is the fact that trial court disregarded the entire recusal procedures, in direct contradiction of the law, failed to oblige counsel for Respondent State Farm, (a major corporation) to meet the "burden of proof'. In further insolence of the law, your honor dismissed Petitioners law-suit with prejudice on-08-05-05, while rendering a discordant decision on his own recusal On 08-30-05, five days after Petitioners law-suit was already terminated from the court, thus declaring the dismissal un-lawful, as trial court was bounded by law to render a decision on the recusal motion, prior to dismissal. The opinion of the trial court is un-reported, but copies of the dismissal and recusal orders are re-produced and affixed hereto as Appendixes "A and B".

Petitioners herein, appealed the case to the Appellate court of Georgia. The appellate court on the contrary, violated Petitioners constitutional rights to due process of law, failing to determine the appeal on it's merit, controversially dismissing the pending appeal case from its court, while remanding said dismissed case back to the trial court based on fraudulent allegations of "missing transcript" an act which not only divergent to the laws and civil procedures governing the state of Georgia, but also the Appellate Courts' own implementations.

A copy of the appellate court's order/ extract is re-produced and affixed hereto as Appendix "D".

Under the circumstance, it is un-imaginable that the Supreme Court would deny Petitioners petition for certiorari. A copy of the Supreme Courts denial of certiorari is re-produced and affixed hereto as Appendix "E". Never the less, a" motion for re-consideration" was filed with the Supreme Court, which was denied despite Respondents State Farm's failure to respond. A copy of the Supreme Courts order dismissing the "motion for reconsideration" is re-produced and affixed hereto as Appendix "F". The legalities of the Supreme and Appellate Court orders remained un-answered, as said orders were not perfected in accordance with court rules.

JURISDICTION

The Supreme Court denied Petitioners petition for certiorari on January 06, 2007. Petitioners filed a motion for "Reconsideration" with the Supreme Court of Georgia on or about 01- 16- 2007, that petition was denied on 02-05- 2007. This petition for a Writ of Certiorari to the United States Supreme Court is filed within ninety (90) days of that date. Jurisdiction is invoked under 28 U.S.C § 1254 (1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTIONAL PROVISIONS

Universal declaration of Human Rights, Articles 1, 6, & 7.

United States Constitution, Amendment I.

United States Constitution, Amendment X1V.

Provisions of Deprivation of Rights, Under Color of Law.

Provisions of Conspiracy against Rights.

Provisions of the Code of Judicial Conduct

STATEMENTS OF THE CASE

Petitioners Mahabir and Shellielle Nanan herein, suffered a devastated fire disaster to their Jonesboro Georgia residence on 02-21-2003. Respondent State Farm Fire & Casualty Company herein, breached the terms and agreement of the contract, failing to compensate Petitioners for their losses, leaving the financial burden and responsibilities, which was the contractual obligations of Respondent upon Petitioners. At the expiration of limitation, twelve months (12), Petitioners herein, filed law-suit against State Farm Fire & Casualty Company for failure to compensate and other violations. In an act of insincerity, State Farm aided and abet multiple outside companies, Rollin Construction, and Adjusters International in filing fraudulent insurance claims against Petitioners, claming these companies performed contractual work on Petitioners behalf, despite clear knowledge the claims were false. In a deliberate act aimed at securing funds on those companies' behalf, Respondent State Farm herein, filed an interpleaded with the court, naming those companies as party to the interpleader.

The trial court proceedings herein were held at the Cobb County State Court, before the honorable judge, David P. Darden. Petitioners suffered tremendous disappointments, as they were victims, not only at the hands of State Farm and their conspirators, but also the court of law which Petitioners relied deeply to perfect equality and justice to all. During court proceedings, trial court exercised clear acts of biasness/ prejudice towards Petitioners, while extending superiority towards counsel for Respondent State Farm Fire & Casualty, and party to interpleaded Rollin Construction. The court herein, permitted Rollin Construction and their attorney to be absent from **all** court proceedings, failing to dismiss Rollin's claim at Petitioner legally repeated requests, leave standing, the un-merited possibility of Rollin and their attorney to possible obtain funds resulting from Petitioners law-suit; despite the essential reality Petitioners never confronted these accusers in court. Subsequently, on 07-18-05, during a motion hearing held by the court, presiding judge exercised further acts of prejudice, discrimination, towards Petitioner in open court, at the recommendation of Respondent State Farm's counsel. Your Honor exploded upon Petitioner Shellie Nanan repeatedly, violated Petitioner freedom of speech, denied all motions filed by Petitioners unequivocally, threatened to impose sanctions upon Petitioner, if she maintained request to be been heard.

The actions of the court herein, deemed un-constitutional, as these mentioned injustices occurred in the presence of the judge's court employees and independent witness whom was present during court

proceeding. Such acts resulted in the wrongful infliction of public humiliation, intimidation, and fear upon Petitioner, while Respondents State Farm's attorney was obliged ample privilege to execute his arguments in lengthily fashion, alleged false allegations against Petitioners, while Petitioner was restricted to frame a defense to the false allegations orchestrated against them. A copy of a letter mailed to the presiding judge by independent witness whom witnessed your honor's demeanor towards Petitioner was filed with the court. Hereto re-produced and attached as Appendix "C".

Under the supervision of the trial court, counsel for Respondent State Farm Fire & Casualty Company herein, violated the laws he was avowed to preserve by deposing Petitioners at the court ordered deposition held on 08-05-05 whilst, informing the court Petitioners failed to be deposed, filing false pleadings in court record, swearing falsely under oath, tampering with material evidence, by failing to file evidence of deposition with the court, further involved in ex-parte communication with the presiding judge, also, his willful abuses of the discovery process repeatedly. Despite these blatant injustices, trial court herein, declined intervention, leaving the attorney un-supervised where he was able to inflict further acts of cruelty and dehumanizing conducts towards Petitioners.

As a result of these mentioned injustices, Petitioners lawsuit was un-lawfully dismissed with prejudice, for failure to attend deposition and home inspection, despite Petitioners diligent compliance with the court's order. The trial court herein, disregard

Petitioners merited claim filed in court record; Petitioners were deposed by the same attorney whom filed the falsified pleadings with the court.

Under this circumstance, Respondent State Farm Fire and Casualty was able to prevailed against Petitioners un-lawfully, failing to compensate Petitioners for their losses, violating Petitioners constitutional rights, thus inflicting further acts of undo hardship upon Petitioners, with the assistance of trial court. Until present, four (4) years after the disaster, Petitioners is yet to receive compensation for their loss

REASONS FOR GRANTING THE PETITION

1. THE BURDEN OF PROOF IS UPON THE PARTY MAKING THE ALLEGATIONS. TRIAL COURT FAILED TO OBLIGE RESPONDENT TO MEET SUCH BURDEN UNDER THE LAW. DUE TO THE FAILURE, RESPONDENT'S ATTORNEY WAS PRIVILEGED TO FILE FRAUDULENT PLEADINGS IN COURT RECORD, TAMPERED WITH MATERIAL EVIDENCE, SWORN FALSELY UNDER OATH, THUS OBTAINING DISMISSAL WITH PREJUDICE AGAINST PETITIONERS UNDER FRAUDULENT PRETENSES. A SERIOUS VIOLATION OF LAW IN ALL CASES.

Petitioner's lawsuit was dismissed for alleged failures to attend deposition and home inspection ordered by the trial court. The statue governing the code is § O.C.G.A.9-11-37. The judgment

against Petitioners herein, is in direct conflict with other cases decided in similar courts. Trial court dismissed Petitioners lawsuit solely on grounds of hearsay, circumstantial, and illegitimate reasons, contrary to the rules of law. Petitioners respectfully declared the dismissal rendered un-lawful, in three officially imperative areas. (1) Under Georgia law, "a motion to dismiss" can only be granted in compliance with Uniform Superior Court Rules 6.3 and 6.4. The rules governing dismissal are properly set forth on pages 682 & 683 of the Georgia Court Rules and Procedures, and stated, "Prior to filing any motion seeking resolution of a discovery dispute, counsel for the moving party shall confer with counsel for the opposing party in a good faith effort to resolve the matter involved, at the time of filing the motion, counsel shall also file a statement certifying that such conference had occurred and that the effort to resolve by agreement the issues raised failed". Rule 6.3 does not require oral argument but, the law rest such decision solely upon the presiding judge to render such necessity, and in this case, the court ruled, that prior to issuing its decision; " the court would hold a special hearing to determine evidence presented." Divergent to the rules of law, counsel for Respondent failed to comply with the rules set forth. The presiding judge on the contrary, defied the courts own essential ruling to hold a special hearing, as previously ruled, and also failed to verify whether Respondent's counsel executed good faith and whether such letter was filed in court record, in compliance with the rules of law.

The second issue surrounding this matter, at the time dismissal was rendered; a pending motion of recusal/ disqualification, in opposition to the presiding judge for his role in violating Petitioner constitutional rights was enforceable. In defiance of the law, trial court violated the entire recusal procedure contained in Uniform Superior Court Rules 25, 25.1, 25.2, 25.3. & 25.4, dismissing Petitioners lawsuit with prejudice on 08-25-05, while rendering a controversial decision on his own recusal, on 08-30-2005, five days after Petitioners law-suit was already terminated from the court. Petitioners contend such action by the trial court unlawful, as the law prohibits Your Honor from rendering decision on his own recusal and violating court rules and laws. A petitioner respectfully submits that even if Your Honor was legally authorized to render such decision on his own conduct, the recusal motion must be rendered prior to dismissal. See State v. Fleming, 245 Ga. 700 (1980).

Thirdly, in its dismissal ruling entered on 08-25-2005, trial court failed to execute the rules of law by failing to oblige Respondents State Farm to meet the burden of proof, as implemented pursuant to §O.C.G.A. 24-4-1 (GCA 38- 103) & § OCGA 24-4-2 (GCA 104). [1]

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[1] Petitioners draw reference to Respondents failure to execute and file good faith letter in accordance with court Rule 6.3. Such compliance was unachievable, due to Petitioners compliance with the court's legal orders. Furthermore, Respondents defied court orders repeatedly, failing to conduct the initial deposition and home inspection in May of 2005, unduly faulting such malfunction upon Petitioners. Subsequently, deposed Petitioners at the second deposition hearing held on 08-5-05, falsely accusing Petitioners of failing to depose, concealing said deposition evidence, obtaining false relief under fraudulent pretenses.

Pursuant to the rules of law, unless other wise provided, the "burden of proof" which never reallocates, indisputable lies upon the party whom constructed the allegations, and as result of the trial court's failures, it is reasonable to conclude, had the trial court administered the laws appropriately; dismissal with prejudice would have been prohibited. Furthermore, it is contrary to the rules of law, our courts reliance solely on hearsay/ circumstantial evidence in rendering decisions as drastic as dismissal with prejudice, while the law clearly affirms such action inadmissible in the court of law. See *State v. Fischer* 230 Ga. App. 613, 497 S.E. 2d 79 (1998); *Coach v. State* 246 Ga. App. 106,539 S.E. 2d 609 (2000). "Hearsay has no probative value and is inadmissible" §O.C.G.A 24-1-1 (GCA 38- 301) defines hearsay evidence as "that which derives its value not from the credit of the witness, but rest mainly on the veracity and competences of other persons. On other hand, direct evidence is explicated in §O.C.G.A 24-1-1 (GCA 38-102), as" that which immediately points to the question at issue". Petitioners respectfully submit that the legal instructions and implementations of "burden of proof" reveal no vagueness or ambiguousness relating to the definition of proof, the law specifically requires the party making the assertions meet not only the burden of proof but also the burden of pleading and persuasion before relief can be obtained. Which basically means, the party making the assertions must prove all allegations, by producing that degree of legally - sufficient evidence to persuade the trier of fact, followed by the burden of pleading.

The burden of producing evidence, commonly referred to as the burden of going foreword with the evidence, falls initially upon the party who bears the burden of persuasion, which is State Farm Fire and Casualty Company, however, when the burden is met by the introduction of evidence from which the trier of fact could infer the fact alleged, only then would the burden of evidence fluctuate upon Petitioners, and in this particular circumstance, Respondent State Farm failed to produce a scintilla of evidence that would legally warrants the production of evidence from Petitions, nevertheless, the facts must be essentially outlined that Petitioners met their duty under the law by framing an affirmative defense, filed in their pleading with the court, in accordance with § O.C.G.A. 24-1-1.

11. THE TRIAL COURTS DECISION IS WRONG

The first legal principle, and probably the most essential, Petitioners pleaded an affirmative defense therefore, is valid consideration sufficient to encompass a declaration under the applicable provisions §O.C.G.A 24-4-1 "burden of proof". The trial court on the contrary illegitimately shifts such burden, which was the responsibility of Respondents upon Petitioners, and stated in the court's dismissal decision entered August 25, 2005. "Defendant State Farm presented evidence to the court that Defendant appeared at Plaintiffs home for the court ordered inspection on August 1, 2005 and at that scheduled time that morning and furthermore that Plaintiffs did not come to the door, or answer Defendants phone calls. Furthermore, Defendant counsel was prepared to depose Plaintiffs at his office, at the court ordered

time, on August 5, 2005, and Plaintiffs failed to be deposed". Petitioners respectfully affirm, not only are the statement of the trial court highly speculative, in the legal sense, deemed circumstantial as trial court could not factually assume the intentions of defense counsel, on this note, Petitioners attached Appendix "N", proof of deposition. Such revelation un-questionably contradicted the declaration of the court that "Petitioners failed to be deposed". Petitioners further contend that contained in their affirmative defences, filed with the court, Petitioners were consistent in informing the court, Petitioners were deposed by the identical attorney whom filed the fraudulent pleadings in court record, despite these affirmative facts, trial court ignored Petitioners pleas, erroneously dismissed Petitioners lawsuit with prejudice.

The court further noted in its dismissal ruling, "Plaintiffs has presented no justification for ignoring the court orders on these matters". The facts must be abundantly clear, such declaration, with respect to the courts comment is legally deficient, on the concept, Petitioners complied with the courts legal orders, however, what the trial court failed to take in consideration, is the fact that, no relevant evidence constituting dismissal with prejudice was submitted by Respondent and had trial court convene a hearing as previously ruled, revelation pertaining to Respondents attorneys deceitful acts would have revealed, further prohibiting dismissal. See Southern RY Company V. Fleming, 141 Ga. 69 (2), 80 S.E. 325 (1913). In this case, defendant re- affirmed, "Because there is no burden of proof on Defendants, in such case, it is proper to say,

the burden of proof upon the case in a whole is upon Plaintiffs." Furthermore, when a court ruled on a "motion to dismiss", the task upon the court is a limited one. The law in general places the burden and liability in the preponderance, upon the party seeking dismissal" See Schever v. Rhodes 416 U.S. 232, 235, 94 S. C.T 1683, 1686 40 l. Ed 2d (1974); Jenkins v. Mckeithen 395 U.S. 411, 421-22 89 S. CT. 1843 1844-49 23 L. Ed. 2d 404 (1969); Concord labs v. Ballard Media Product (NH. 1988). [2]

111. TRIAL COURT VIOLATED PETITIONERS FIRST AND FOURTEENTH AMMENDMENT RIGHTS

The right of a litigant to fairly and equally present their case in court is fundamentally significant to the material outcome of the case. Petitioners maintained, the motion hearing of July 18th 2005 herein, portrait-convincing evidence of biasness/ prejudices, discrimination, human callousness, towards Petitioner in open court. These acts transpired despite trial court's obliviousness to facts and circumstance occurred during courts adjournment. Contrary to the law, the court violated Petitioner freedom of speech,

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[2] Petitioner's reliance (Scheuer v. Rhodes, 416 U.S 232 (1974), Jenkin v. Mckeithen, 395 U.S 411, 421- 22 89 S CT. 1843, 1849- 49, 23, L. ED, 24, 404 (1969), Concord Labs v. Ballard Medical Product (N.H. 1988). The decision concerning the issue whether a court can grant a "motion to dismiss" is a limited one. The standard of granting such motion is not whether or not a plaintiff will ultimately prevail on the merit, but whether the claimat is entitle to offer evidence to support the claim. A complaint should not be dismissed unless it appears beyond a doubt, the appellant can prove no sets of facts in support of his claim, which would entitled his to relief. The trial court erroneously misapplied the law is granting Respondents motion to dismiss. The question before this court is; under what authority of law trial court acted.

declaring the allegations of counsel for Respondents ultimate facts. Petitioners further contend that borderline defenses, pro-se litigants are entitled to the mantle of the full constitutional protections of freedom of speech under the first and fourteen Amendment, unless the conduct of the exhibitors was such as to encroach upon the rights of others whose responsibility it was for the State of Georgia to protect through its' legal processes. In this regards, Petitioners was relying on the words of law, carefully set forth in the code of Judicial Conduct on page 1173 through 1184 where it is written. Cannon 3: "Judges shall perform the duties of judicial office impartially and diligent" and subsection (b) "Judges shall be faithful to the law and maintain professional competence in it. Judges shall not be swayed by partisan interest, or fear of criticism; "judges shall be patient, dignified and courteous to litigants, lawyers, and others they deal in their official capacity of the law, and shall require similar conduct of lawyers, court officials, and others subject to their direction and control.

Judges shall accord to every person who has a legal interest in a proceeding, or that person lawyer, the right to be heard according to the law. Judges shall not initiate or consider ex parte communications, or consider other communications made to them outside the presence of the parties concerning a pending or impending proceeding. Trial judge may summon and examine witness of its own choosing, thought the court must employ extreme caution to prevent expressing or even intimating an

opinion on the veracity of the witness or significance of the testimony".

Contained in their briefs filed with the higher courts, Petitioners urged the courts that the legal instructions contained in the code of judicial conduct, which is the governing foundation of judges conducts, was particular applicable where the issues of ones fundamental rights forcible under the 14 amendment of the constitution of the United States, as fallows;

"No state shall make any laws which shall abridge the privileges of citizens of the United States.

In the first place, as heretofore noted, there is no proof and there can be no claim made by trial court and Respondents State Farm, which would justify the repeated and un-lawful violations of Petitioners constitutional rights. The blatant deprivation of Petitioners freedom of speech, exploding upon Petitioner in open court repeatedly, threats of sanction is Petitioner insisted on been heard. The un-provoked and wrongful infliction of public humiliation, intimidation, and trepidation upon Petitioner, which was anarchically and willfully imposed, deemed inexcusable, as a matter of fact and law.

With respect to the courts recusal decision, untimely and inadequately perfected, honorable judge David Darden did not dispute the fact that he exploded upon Petitioner in open court, and also proceeded to rulings without allowing Petitioner an opportunity to defend the false allegations brought against her by counsel for Respondents during the courts legal proceeding,

instead, Your Honor provided an incomplete response "Plaintiff motion set forth a claim that the court mistreated her during the July hearing by instructing her not to interrupt the court or opposing counsel during the hearing. Plaintiff alleges the court exploded upon her and refused to read her **numerous** briefs and filings." However, what your honor failed to recognized court transcript and letter from independent witness whom witnessed these blatant abuses will substantiate Petitioners claim. A copy of said letter from independent witness filed in court record, hereby reproduced and affixed hereto as Appendix "C".[3]

The laws and constitution of the United States, summoned our judicial officers with the highest standards of integrity and legal convictions. U.S.C. Title 18, Section 241 "Conspiracy against Rights", and Title 18, U.S.C., Section 242 "Deprivation of rights under color of law", declared such acts un-lawful, in some instances a federal crime, for anyone acting under color of law, statue, ordinances, to inflict inhumane acts as devastated as those inflicted upon Petitioner, a litigants whom have interest in legal proceedings.

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[3] At the duration, July 18th motion hearing, Petitioner severely deprived her fundamental rights to fairly and accurately defend false allegations brought forth by Respondent counsel in lengthily fashion. Trial judge proceeded to rulings without allowing Petitioners opportunity to defend the allegations. Petitioners patiently, respectfully, requested opportunity to address those issues. Your Honor exploded upon Petitioner repeatedly, resulted in the wrongful infliction of public humiliation, intimidation, and fear upon Petitioner. These injustices were wrongly inflicted at the recommendation of Respondent counsel. Petitioner also maintained, trial court scheduled their case as the final case on the courts calendar, at both hearings held on 04-11, and 07- 18, insuring all other cases were resolved, however the court overlooked the presence of Mr. Forrester (independent witness) whom witnessed the abuses. The witness subsequently, mailed a letter to the court, which was later filed in court record, see appendix c.

The issue to be precisely recognized is citizens fundamental rights to freedom of speech, that have contributed greatly to the development and well- being of our free society, fundamentally indispensable to its continued growth. Under no standards should trial judge and counsel conspire to violate the rights, freedom, and immunities, of another individual whom rights is protected under the provisions of the laws and Constitution of the United States.

A. THE TRIAL COURT JUDGE AND RESPONDENT COUNSEL CONDUCT VIOLATED THE RULES OF LAW.

The Georgia Rules of Evidence § 2.3 on page 18 where it is contained, "the trial judge has the rights to expect courtesy and consideration from counsel and has the duty to provide such courtesy in return... The trial judge is "more than a mere chairman preserving order at a meeting, he is a minister of justice with a duty to govern the process of the trial". The trial judge has basic supervision over the courtroom and the general presentation of witness, but caution, that authority must not be used to deny a party the opportunity to properly and fairly present his case, see *Henry v. State* 265 Ga. 732, 462 S.E.2d 737 (1995). Having in mind the constitutional constriction of willful misconduct, it would appear that during the courts legal proceedings, the superiors of the law would preserve its integrity, precluding ignominy, trepidation, bigotry, towards litigant who's right it was to attend.

The Georgia Rule of Evidence, § 2.2, pages 11 & 12 where it is instituted, stated, "The primary responsibility for developing and guiding a case through our legal system lies squarely on the lawyer.

Counsel has a duty to represent a client zealously within the bounds of the law; however, the Georgia Rules of professional Conduct contains a number of basic provisions regarding the conduct of counsel.

Preamble (4) Forbids lawlessness and inappropriate behavior from lawyers, states as follows; A lawyer should use the law procedures only for legitimate purposes, and not to harass and intimidate others.

A lawyer should demonstrate respect for the law and the legal system.

While it is a lawyer's duty, when necessary to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

Rule 3.1 **(Mauritius claim and Contentious)**

In the representation of a client, a lawyer shall not file a suit asserting a position, conduct or defense, delay a trial, or take other claim action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

RULE 3.3 **(Condors towards the Tribunal.)**

A lawyer shall not knowingly;

(1) Make a false statement of material fact to a tribunal.

(2) Fail to disclose a material fact to the tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client.

Legal argument based on a knowingly false representation of law constitutes dishonesty to the tribunal. A lawyer is not required to make a disinterested exposition of the law, but must recognize the existence of pertinent legal authorities. Furthermore, as stated in paragraph (a) 3 an advocate has a duty to disclose directly adverse authority in the controlling jurisdiction, which has not been, disclose by the opposing party. The underlining concept is that legal argument is a discussion seeking to determine the legal premises properly applicable to the case. In Vaughn v. State, 274, Ga. 13, 15,549, S.E 2d, 86 (2001). ("Trial counsel is precluded from assisting his client in presenting perjured testimony"). Also, In re C.G.B., 242 Ga. App. 705, 531 S.E. 2d 107 (2000). ("Attorneys have an affirmative obligation to accurately state the fact and ... failure to do so may subject them to fines for contempt.) In this case, Nanan v. State Farm Fire & Casualty Company, Respondent State Farm's attorney's conduct substantially, dishonored the laws he was avowed to safeguard, as the attorney sworn falsely under oath, filed false pleadings in court record repeatedly, tampered with material evidence, by concealing essential evidence from the court, thus, obtained relief against Petitioners by fraudulent means. Petitioners indisputable insisted, the actions of Respondents counsel constitutes abominable sins, and that such acts are punishable under the law, guided pursuant to Title 18 > part 1 > chapter 79 > § 1621 (perjury), also stated, § O.C.G.A. 24-9-85 (GCA) 38-1805, "Falsus in uno. Falsus in omnibus." Translated as, "He who speaks falsely in one thing will speak

falsely in everything;" False pleading, false swearing. Blacks Legal Dictionary also interpreted "perjury" as "The act or an instance of a person making false or misleading statement while under oath". As a result of the attorney's mendacious acts, Petitioners were compelled to file a copy of the deposition transcript in court record. In the first place, it was the statutory ingenuous obligations of Respondents attorney to do so in compliance with the law. The laws in essence, also declares repeated failures to dispute accusations, constitutes admission on the part of the party whom failed to challenge.

B. THE APPELLATE COURT VIOLATED PETITIONERS RIGHTS TO DUE PROCESS.

The issues herein, brought on appeal with the Appellate court of Georgia, docketed in court record on 12-30- 2005, bearing appeal case # A06A0916. Both Petitioners and Respondent filed motions/ briefs into said appeal case record. Petitioners maintained those nine months into its duration, appellate court violated Petitioners fundamental rights to due process of law, failing to issue a ruling on the merit of the case, whilst, divergently remanding the case back to the lower court, based on allegations of "missing transcript", casting a lingering shadow on Petitioners ability to obtain due process relief through judicial processes. Such act is divergent to the rules of law as appellate court is forbidden by law to dismiss a pending case from its court, missing a ruling on its merit, in the course of remanding said dismissed case back to the lower court.

The facts must be abundantly clear as heretofore stated, those allegations of "missing transcript", the appellate courts sole reason for remand, re-docketing, dismissal, contain falsity and deception. Lower court, Cobb County State Court, whose responsibility it was to transmit transcript of record to appellate court, substantially, disputed the statement of "missing transcript", elucidating the record that the transcript in question was never missing from court record, as falsely alleged by Appellate court order, thus declaring the court order un-lawful and legally ineffective. The standards herein, in accordance to the doctrine of Appellate Court, are neither supported in fact nor law, on the basis, transcript of the July hearing, which has mysteriously vanished from court records, so alleged by the appellate court, was the very transcript which reveals the un-lawful ordeal, wrongfully inflicted upon Petitioner in open court, at the hands of Respondent counsel and trial court judge. The engagements of the appellate court herein, in its conspitatory nature, poses grave question, whether appellate courts true intention was to conceal the acts of trial court judge and Respondent counsel, in their ungovernable acts, to somehow hinder Petitioners attempt to achieve revelation and also impede accomplishment through appellate procedures. Petitioners contend, most minuscule, the laws, in essence, declares such action corrupt.[4]

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[4] The laws in all cases stringently prohibit the perfection and mailings of factitious court orders, especially under genuine circumstances where the court is bounded by law to preserve a case from dismissal. Appellate court concealed these un-lawful acts, willfully constructing defenses which later revealed to be false, due to evidence obtained from the lower court which explicated the record, "transcript was never missing from court record". Such

The law strictly prohibits and imposes significant legal consequences in cases surrounding improper perfection of fictitious court orders, and also places the burden and responsibility upon clerk of trial court, to transmit transcript of records to appellate court, also, clearly outlaying the duties and responsibilities of appellate clerks in persevering appeal from dismissal, under genuine circumstances concerning missing transcript.

The facts must be stated initial as heretofore. Petitioners tendered funds in excess of $400.00 (four hundred dollars) in court fees for the transmitting of transcript and records to appellate court, in support of their appeal, and obtained proof via United States Postal Service, those documents were transmitted in accordance with the provisions of § O.C.G.A.5-6-43.

Pursuant to the provisions of §O.C.G.A. 5-6-43, unless otherwise provided, "Within 5 days after the date of filing of the transcript of evidence and proceedings by the Appellant or Appellees, as the case may be, it shall be the duty of the clerk of the trial court to prepare a complete copy of the entire record of the case, omitting only those things designated for omission by the Appellant and which were not designated for inclusion by the Appellee, together with a copy of the notice of appeal and copy of any cross notice of cross appeal, with date of filing thereon, and transmit the same, together with the transcript of evidence and proceedings.

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illicit acts were repeated by appellate court, as further illegitimate court orders were perfected, ruled upon, and mailed to Petitioners, via U.S. mail. See Appendix "G & H".

It is imperative for this court to determine, therefore, whether the dismissal, remand, re-docket of Petitioners appeal case by the Appellate Court is justifiable in the legal and constitutional sense, delineated pursuant to § O.C.G.A.5-6-48, subsection (d). In order for the United States Supreme Court to reach such determination, the pertinent provision of the governing statue mentioned herein, and can be found on pages 28 & 29 of the Georgia Court Rules and Procedures, where it is instituted.

"At any stage of the proceedings, either before or after argument, the court shall by order, either with or without motion, provide for all necessary amendments, require the trial court to make corrections in the record or transcript, or certify what transpired below which does not appear from the record on appeal, require that additional portions of the record or transcript of evidence be sent up, or take any other action to perfect the appeal and record so that the Appellate Court can and will pass upon the appeal and **not dismiss it.**" In addition, Appellate Rule 11 (a), which is contained on page 598 of the Georgia Court Rules and Procedures stated, "No appeal shall be docketed until the notice of appeal and a record, and transcript, if requested, is filed in the clerk's office".

Emphasis should be drawn to the statement contained in Rule 11 (a), as Petitioners appeal case was pending a ruling on its merit, 9 months (nine months) prior to its premature dismissal. In a statutory, logical sense, if appellate court was candid in its claim of "missing transcript" it would be impossible for appellate clerk to ignore, in its initial stages of docketing, transcript of record was

missing from court record, and he would have not procrastinated nine months to take action. Furthermore, the facts must be stressed, the actions taken in this case was inappropriate, constituting reversal err; on the notion that a pending case cannot be dismissed absent a ruling on its merit. Secondly, in the first place, it was the appellate clerk's responsibility to preserve the case from dismissal in compliance with O.C.G.A 5-6-48.

The legal danger herein, is the fact that appellate court clerk un-authorized re-docketed the appeal case regardless of Petitioners timely filed "notice of intent" to petition to the Supreme Court of Georgia for certiorari, which would have legally stayed re-docketing, which is unwarranted in this matter. The record of the Appellate Court reveled Petitioners "notice of intent" was filed in court record on 08-22-06, a period of 7 days, prior the courts re-docketing. The actions of the appellate clerk herein, displayed clear acts of presumptuous violations, as the outcome of such incongruities resulted in the un-lawful creation of multiple appeal cases, representing the same issue simultaneously. Most erroneously, the newly docketed appeal case was perfected on August 30 2006, reprehensively displaying a 2007 docket number (A07A0119), abhorrent to the rules of laws, as the state of Georgia like all states required all cases docketed in its courts, to be concurrent with the year it was perfected, under a single case file. Under no possible standards should the Appellate court be involved in such loathsome deprivation of individual civil rights, while the

law necessitate safeguard in the interest of Petitioners under the laws and constitution of the United States.

C. THE APPELLATE CLERK ABUSED HIS AUTHORITY AND ALSO INVOLVED IN ILLICIT MISCONDUCT.

The facts must be noted initial as heretofore, since the initial stages of the appeal, Clerk, William Martin III abused his clerical authority, adopting conflicting principles, aimed at hindering Petitioners of their abilities to fairly achieve due process advancement, ensuring dismissal of Petitioners law-suit by illegitimate measures. In a letter mailed to Respondents counsel in February 2006, appellate clerk falsely informed Respondents attorney, "Petitioners appeal case was untimely filed and contained too many pages", prompting Respondents counsel to file a motion with the court seeking dismissal of the appeal. When this attempt failed, further steps were taken, as demonstrated on 08-16-06. Such dishonest scheme succeeded as Petitioners appeal case dismissed on fraudulent allegations of "missing transcript".

Confronted on these issues, the clerk attempted to sanitize his acts; perfecting and filing multiple fictitious motions into the newly docketed appeal case, as attempt to dissolve the case. Because the law requires a plaintiff to file motion requesting dismissal of his own case, and prohibits court clerk to doing the same, clerk Martin III, constructed these filings, under fraudulent pretenses, the documents filed, were the actions of Petitioners. In actuality, no such documents were filed by Petitioners. These un-lawful acts resulted in the un-lawful creation of multiple illicit court orders,

ruled upon and mailed to Petitioners via U.S mail, thus constituting fraud and mail fraud. The law declares such acts disingenuous, as in the first place, said appeal case was illegitimately perfected by the clerk, utilizes un-lawful means in dissolving a case he has illegitimately created; intolerable on the basis, these acts were instigated in the best interest of Respondent State Farm Fire & Casualty Company. Copies of the illicit documents are re-produced and affixed, hereto as Appendixes "G" and "H".

THE ISSUES PRESENTED ARE OF GRAVETY AND SIGNIFICANT NATIONAL IMPORTANCE.

The extent of these violations severely perverse, prompted Petitioners to file complaint with Justice Ruffin, (chief justice of the Appellate court) and Justice Sears of the Supreme Court. Both justices declined intervention. Further complaint was filed with the Federal Bureau of Investigation, requesting internal investigation. It is amazing, under the supervision of the Appellate Court, clerk Martin III was obliged privileges blatant as described. Petitioners contend, most miniscule, the law declares the action of the appellate court lawless, a conflict of interest; as such conduct serves no other purpose but the interest of Respondents State Farm Fire & Casualty Company, while on the other hand, substantially desecrated Petitioners ability to obtain equality and justice through judicial remedies. Presently, there is no legitimate appeal case file pending, under which this appeal case matter can be resumed. Despite these facts; Supreme Court of Georgia denied certiorari, under such gravely, important circumstances, in the absence of a statutory

decision. Ultimately, Petitioners are inadequately vulnerable to the illegitimate acts of the courts and Respondent herein. The law declared these injustices un-lawful; poses severe dangers to litigants in the permissible sense, as thorough review of all cases brought before the appellate and supreme courts, in the past three years or beyond, revealed Petitioners circumstances comparable to no other cases ruled upon by the courts. Case laws and researches revealed exceptional differences in similarity with other cases, and for these legitimate reasons, Petitioners respectfully urge this court; grant Petitioners relief in a precedent setting, reference for future litigants to pursue.

Certainly, under the procedural Due Process decisions of the courts, the ad hoc procedure sought to be invoked by the trial court and the appellate court, is clearly constitutionally deficient and repugnant to the Universal Declaration of Human Rights, the first and fourteenth Amendment to the constitution of the United States within the context of the exercise of first and fourteenth Amendment freedom. The courts herein, held a standard that their transgressions, some how does not affect the material outcome of the case, profoundly violated Petitioners constitutional rights, substantially, blemished Petitioners faith in the judicial system. Whether such standards satisfy constitutional requirements, it is submitted, a substantial question.

The laws of our land was implemented to allow all Americans regardless of color, race, national origin, their fundamental rights to a fair and equal process of the law, commonly referred to as "due

process". It is prohibited for any individual, courts, attorney, to hinder or impede ones ability to obtain those blessings so rightfully bestowed by the laws of the constitution of the United States, which is the life support of our free and modern society. To violate the very standards which governs and regulates the pathways of our fore fathers, current justices, individuals, congressional caucuses, courts, is like shutting out the lights to freedom, equality, fundamental values, which will only harbors, dehumanizing conducts, such as discrimination, prejudices, bondage, oppression, un-equality, which possesses no legally constructive value in our liberated society.

CONCLUSION

Petitioners have exhorted every possible legal avenue in their pursuit for judicial liberation and were severely deprived/ hindered of their rights to obtain equality and justice, or to freely acquire "due process" remunerations. For many years, our society shown enormous faith in the United States Supreme Courts impartiality, extend in the entirety of cases decided, meticulously reviewed, not all cases are legally worthy of relief. The courts in general, have a particular standard in determine judicial eligibility, worthiness of certiorari, based on circumstance of individual case. However, this case, Nanan V. State Farm Fire & Casualty Company, bears sensational traits in its unique judicial criteria therefore, worthy of warranted relief.

Should this court declined Petitioners merited request, the hard struggles, audaciousness, persistence, not excluding the

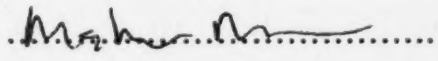
presumptuous abuses, wrongful violations, incurred at the hands of the lower court, appellate court, counsel for Respondents, specifically, the blatant and lawless deprivation of Petitioners constitutional rights, would go un-accounted, as this maybe Petitioners final recourse. As a result of the palpable miscarriage of justice, Petitioners are left judicially crippled; with no other recourse but to hunt for the essential relief so desperately seek, before the United States Supreme Court, under such inadequate conditions. Under the circumstances, Petitioners respectfully emphasized the importance that a writ of certiorari is granted in this matter, as the unguided decisions of the courts have cast a dark and tedious shadow on Petitioners ability to obtain equality before the courts.

It is vitally imperative that this court demonstrate effectiveness and credibility towards litigants whom have interest in the court of law, in order to insure that these mentioned injustices at the lower courts level does not prevail. Such action will promote the publics faith in the integrity and fairness of the legal system, promote other justices and courts, to be more careful, restore impartiality to litigants in the judicial process, and most significant, secures the relief that Petitioners so rightfully deserves.

It would be appreciated, and imperative, should this court declined certiorari, a legal jurisdiction determined, as to where the case to be resumed, is necessary, as due to Appellate Courts delinquencies future jurisdiction in this matter is unclear.

WHEREFORE, for the reasons set forth in the petition herein, it is respectfully urged that the petition for a writ of certiorari be granted.

Respectfully, submitted this 1st day of May 2007.



Mahabir Nanan

Shellielle Y. Nanan
Pro Se
445 Staten Street,
Jonesboro, GA 30238

(770) 210- 1017

Appendix A

IN THE STATE COURT OF COBB COUNTY
STATE OF GEORGIA

MAHABIRAND NANAN AND.
SHELLIELLE YONHOING,

Plaintiffs and Respondents-
In-Counterclaim

Civil Action File No.
04- A- 5606-5

Vs.

STATE FARM INSURANCE COMPANY,

Defendant, Counter-Claimant,
Third-Party plaintiff-in-In

Vs.

CARL BOSTIC, INC. d/b/a AFFORDABLE HOME IMPROVEMENT;

GOODMAM GABLE GOULD/ ADJUSTERS INTERNATIONAL AND REGIONS MORTGAGE, INC.

Third party Defendant in Interpleader.

ROLYN CONSTRUCTION CORPORATION,

Intervenor.

ORDER

This case comes before the Court on Defendant State Farm Fire and Casualty Company's Second and Supplemental Motions for

Sanctions against Plaintiffs. The Court has reviewed the Motions and the Plaintiffs' Responses and rules as follows:

On July 18, 2005 both parties came before this Court for a hearing on, among other things, Defendant State Farm's Motion for Sanctions against Plaintiffs for their repeated failure to make themselves available for disposition and to make their home available for inspection by Defendant. Prior to this hearing the Court had ordered the Plaintiffs multiple times to make themselves available for depositions and to make their home available for inspection. Contrary to the Court's ruling Plaintiffs had not done so.

At the hearing of July 18, 2005 the Court informed Plaintiffs that it would give them one final chance to comply with the Court's order in this matter. As such, the Court ordered Plaintiffs to make their home available for inspection by Defendants on August 1, 2005 at 10:00 a.m. At the same hearing the Court ordered the Plaintiffs to make themselves available for a deposition to take place at the office of Defendant's counsel on August 5, 2005 beginning at 10:00 a.m. Plaintiffs indicated in open court that they understood the Court's order.

Subsequently, on July 27, 2005 Plaintiffs filed an untimely Objection to State Farm Insurance Inspection of Plaintiffs Home [sic]. Not only was the objection untimely in that it occurred after the July 18, hearing, it was also filed will after State Farm's original Notice of Inspection sent December 22, 2004.

Defendant State Farm presented evidence to the Court the that counsel for Defendant appeared at Plaintiff's home for the Court ordered inspection on August 1, 2005 at the scheduled time that morning and furthermore that Plaintiffs did not come to the door or answer Defendant's phone calls. Further, Defense counsel was prepared to depose Plaintiffs at his office at the Court ordered time on August 5, 2005 and Plaintiffs failed to be deposed.

Defendant subsequently filed this Motion for Sanctions against Plaintiffs and the Plaintiffs have responded. The Court has reviewed Plaintiff's responses and fins Plaintiffs have presented no basis or justification for ignoring the court's order on these matters. The Plaintiffs have repeatedly abused the discovery process and willfully refused to respond to discovery requests and this Court's orders to comply. The Plaintiffs were warned by the court at the July 18, 2005 hearing that the failure to comply with the Court's orders could result in sanctions. Therefore, pursuant to O.C.G.A § 9-11-37, the Court has no choice but to grant Defendant's Motion for Sanctions. Plaintiffs claim against State Farm Fire and Casualty Company is hereby DISMISSED with prejudice.

SO ORDERED this 25 day of August 2005.

s/ David P. Darden Judge

STATE COURT OF COBB COUNTY

Appendix B

IN THE COURT OF COBB COUNTY
STATE OF GEORGIA

MAHABIR NANAN and

SHELLIELLE NANAN

Plaintiffs and Respondents –

In Counterclaim

Vs.

CIVIL ACTION
FILE No. 04-A-5606-5

STATE FARM INSURANCE COMPANY,

Defendant, Counterclaim,
Third-Party Plaintiff-in-Interpleader,

GOODMAN, GABLE GOULD/ ADJUSTERS INTERNATIONAL; and

Third party Defendants –in- Interpleader
Rolyn Construction Corporation

Intervener

ORDER

Plaintiffs have filed a motion for "disqualification or recusal of assigned judge." Plaintiffs contend that the court's earlier order compelling Plaintiffs to respond to discovery was "biased and

prejudicial" because State Farm's Motion to Compel contained "hearsay and circumstantial" allegations.

Plaintiffs' motion further sets forth a claim that the Court mistreated her during the July hearing by instructing her not to interrupt the court or opposing counsel during the hearing. Plaintiffs allege the Court "exploded" and refused to read Plaintiffs numerous briefs and filings presented before or at the hearing.

Plaintiffs' contentions are however conclusory and do not show any basis for recusal. Ms. Nanan repeatedly interrupted the Court and was instructed not to interrupt the Court. Nonetheless, Ms. Nanan was given the opportunity to present her argument to the Court in a proper manner.

Thus the Court undertakes the three-step process when presented with Ms. Nanan's recusal motion. The motion appears to have been timely filed with five (5) days of the hearing date.

The affidavit contains broadly worded assertions which do not support further inquiry. Ms. Nanan essentially claims that the Court's recusal is warranted for two reasons. First, recusal should occur should occur because the Court accepted State Farm's argument on discovery matters. The adverse ruling showed, Nanan argues, bias and prejudice warranting recusal. She does not support the allegation of bias and prejudice beyond and adverse ruling. Any disappointed litigant could make the same argument.

The sufficiency of Nanan's assertion does not, on such grounds, meet the proper standard. In fact the Courts order, about which Nanan complaints, merely directed the Nanas to comply with discovery requests and did not, at such time, award any sanctions. In addition, an objective reasonable person would not find sufficient judicial bias merely because the Court prevented Ms. Nanan from interrupting and speaking out during rulings. Likewise, the adverse ruling had foundation in the record. Nanan's remedy, in light of an unfavorable ruling, is appeal and not a recusal motion. **See, Baptiste v. State,** 229 Ga .App. 691 (1997).

Because Nanan has failed to meet the threshold requirement for sustaining the motion to recuse, the motion is DENIED

SO ORDERED, this 30 day of August, 2005

s/ David P. Darden judge

State Court of Cobb County

Appendix C

Submitted: Jul. 18, 2005

Honorable Judge Darden:

Today, July 18, 2005, I sat inside your court room (4A) as per request of Plaintiffs – Mr. Mrs. Nanan – in support of their case against State Farm Insurance Company. Sir, I testify unreservedly and without any biases or sophisticated appreciation of the law as Your Honor's scholarly and familiarity. I am writing to you as a voluntary spectator, without any knowledge by the Nanan's, as I am compelled by my conscience in all that I have observed to present. As an undergraduate reading for my Bachelor of Business Administration in International Business and having logged numerous case studies on several major corporations and their interaction with their stakeholders, I am both fascinated and dismayed based on my observation of all that have been a witness to.

The laws of the land, Sir, to my limited understanding were annotated in an attempted to bestow relative justice for all through arbitrary involvement, i.e. interpretation of the law with the fact(s) presented. Persons unable to resolve a situation amicably would seek litigation in their pursuit of justice on an equal plane. With this said, base on my witness of your court room proceedings and of the cases you have presided over, before the Nanan's case, I thought Judge your conduct was indeed fair at least with the officer's of the court. But at about 1:15 p.m. when it came to the Nanan's case, the

last scheduled case of your Motion's calendar, your conduct varied significantly to the point where Judge, you've exploded upon Mrs. Nanan based on the recommendations of counsel for the Defendant. Honorable Judge, to be reasonable, your tolerance for the defense counsel's arguments and unequivocal rejection of Plaintiff's perspective would make one party's allegations seem ultimate fact and highlights explicitly the scale of Justice, in my opinion, skewed.

There is a maze of conspiracy which in my estimation was blueprinted to deprive the Nanan family of compensation for which they were contractually entitled, resulting from their tragedy. An essential component of the Nanan rights to an effective defense is to face their challenger and any party unwilling to defend their contention in person, I think should be repealed especially if such occurrence is repeated. Your Honor, the Defendants wield a reputation so awful that most respectful attorneys are understandably reluctant to challenge. Honorable Judge Darden, the result of this case, in its contended simplicity, is wholly based upon your impartiality and review of all perspectives. It is not an essay undertaking but the only reasonable solution.

I thank you for the time you have taken from your most important schedule.

Respectfully,
s/ Shelloiy Forrester

Appendix D

COURT OF APPEALS

OF THE STATE OF GEORGIA

ATLANTA, AUGUST 16, 2006

The Court of Appeals hereby passes the following order

A06A0916. NANAN ET AL. v. STATE FARM FIRE AND CAS.CO.

Mahabirand and Shellielle Yonhoing filed the instant appeal pro se seeking review of a trial court order that dismissed with prejudice their suite against State Farm as a discovery sanction. Appellants requested that a copy of the transcript from the relevant July 18, 2005 hearing on the motion to compel be included in the appellate record. Because the transcript of the motions hearing was not included in the appellate record and because it appears the transcript is not in the custody of the clerk below, the case is according REMANDED to the Superior Court of Fulton County so that a complete record may be prepared and transmitted to this Court in accordance with OCGA § 5-6-43. The appellants are not required to file another notice of appeal. Finally, all pending motions are hereby DENIED.

Lc number: 04A56065

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta Aug 16 2006
I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia

Witness my signature and the seal of said court
hereto affixed the day and year last written above.

s/ William Martin III, Clerk

Appendix D Continued

COURT OF APPEALS

OF THE STATE OF GEORGIA

ATLANTA, AUGUST 21. 2006

The Court of Appeals hereby passes the following order:

A06A0916. NANAN ET AL v. STATE FARM FIRE AND CAS. CO.

It appearing the order of this Court issued August 16, 2006, is incorrect due to clerical error, it is hereby ordered that the order attached hereto be substituted for the original order.

Court of Appeal of the State of Georgia
Clerk Office, Atlanta Aug 21 2006
I certify the above is a true extract from
the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said Court
hereto affixed the day and year last written.

Clerk

s/ William Martin III

Appendix D Continued

COURT OF APPEALS
OF THE STATE OF GEORGIA

ATLANTA, AUGUST 16, 2006

The Court of Appeals hereby passes the following order:

A06A0916. NANAN ET AL. v. STATE FARM FIRE AND CAS CO.

Mahabir and Shellielle Yonhoing filed the instant appeal pro se seeking review of a trial court order that dismissed with prejudice their suit against State Farm as a discovery sanction. Appellants requested that a copy of the transcript from the relevant July 18, 2005 hearing on the motion to compel be included in the appellate record. Because the transcript pf the motion hearing was not included in the appellate record and because it appears the transcript is not in the custody of the clerk below, the case is accordingly be REMANDED to the State Court of Cobb County so that a complete record may be prepared and transmitted to this court in accordance with O.C.G.A. § 5-6-43. The case will be re-docketed in this court at that time, but with a different case number. The appellants are not

required to file another notice of appeal. Finally all pending motions are hereby DENIED.

Court of Appeals of the State of Georgia
Clerk office Atlanta Aug 16 2006
I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia

Witness my signature and the seal of the said Court
Hereto affixed the day and year last above written.

s/ William Martin III Clerk.

Appendix E

SUPREME COURT OF THE STATE OF GEORGIA

CLERK'S OFFICE

ATLANTA

Shellielle Nanan
445 Staten Street
Jonesboro, GA30238

Case No. S07C0053

Mahabir Nanan et al. V.
State Farm fire and Casualty Company

Court of Appeals Case No. A06A0916

The Supreme Court today denied the petition for certiorari in this case. All the Justices concur.

s/ Therese S. Barnes, Clerk

APPENDIX F

SUPREME COURT OF GEORGIA

CLERKS OFFICE

ATLANTA

Case No. SO7COO53

The honorable Supreme Court met Pursuant to adjournment.

The following was passed:

MAHABIR NANAN V. et al. v.

State Farm Fire AND CASUALTY COMP.

Upon consideration of the Motion for Reconsideration filed in this case, it is ordered that it be hereby denied.

SUPTEME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I hereby certify that the above is a true extract from
The minutes of the Supreme Court of Georgia.
Witness my signature and the seal of said court hereto
Affixed the day and year last above written.

S / Therese S. Barnes, Clerk

APPENDIX G

COURT OF APPEALS OF
THE STATE OF GEORGIA

ATLANTA, OCTOBER 20 2006

The Court of Appeals hereby passes the following order:

Court of Appeals Case NO. A07A0119
MAHABIR NANAN ET AL V. STATE FARM INSURANCE COMPANY

From the State Court of Cobb County.

On motion it is ordered that counsel for appellant be allowed to withdraw the appeal in the case.

LC NUMBER: 04A56065

Bill of Cost, $80.00

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta Oct 20 2006

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written

Clerk.

s/ William Martin III

APPENDIX H

COURT OF APPEALS

OF THE STATE OF GEORGIA

ATLANTA, NOV 03 2006

The Court of Appeals hereby passes the following order:

A07A0119. MAHABIR NANAN, ET AL. v. STATE FARM INSURANCE COMPANY

The Motion for Reconsideration filed in the above matter is hereby dismissed as MOOT.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Clerk.

s/ William Martin III

APPENDIX I

1ST AMMENDMENT TO THE UNITED CONSTITUTION OF THE UNITED STATES

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceable to assemble, and petition the Government for a redress of grievances.

14 AMMENDMENT TO THE UNITED STATES CONSTITUTION.

SECTION 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of liberty, life or property, within due process of law; nor deny to any person within its jurisdiction the equal protection of the law."

APPENDIX J

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

ARTICLES 1, 2, 6,7,19.

ARTICLE 1.

All human being are born free and equal in dignity and rights. They are empowered with reason and conscience and shall act towards one another in a spirit of brotherhood.

ARTICLE 2.

Everyone is entitled to all rights and freedoms set forth in this declaration, with ought distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.

ARTICLE. 6.

Everyone has the right recognized everywhere as a person before the law.

ARTICLE.7.

All are equal before the law and are entitled with ought any discrimination to equal protection of the law.

ARTICLE.19.

Everyone has the right to freedom of opinion and expressions.

APPENDIX K

CODE OF JUDICIAL CONDUCT

SUBSECTION 7.

Judges shall accord to every person who has a legal interest in a proceeding, the rights to be heard according to the law.

APPENDIX L

DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

Title 18, U.S.C., Section 242.

"This statue makes it a crime for any person acting under color of law, statue, ordinance, regulation, to willfully deprive or cause to be deprive from any person those rights, privileges, and immunities secured or protected by the constitution and laws of the United States."

APPENDIX M

CONSPIRACY AGAINST RIGHTS.

Title 18, U.S.C., Section 241

"These statues make it un-lawful for two or more persons to conspire to injure, oppress, threaten, intimidate any person of any state, territory, or district in the free exercise of enjoyment of or privilege secured to him/ her by the constitution of the laws of the United States.

APPENDIX N

IN THE STATE COURT FOR THE COUNTY OF COBB
STATE OF GEORGIA

MAHABIR AND SHELLIELLE NANAN,
Plaintiffs and Defendants in Counter claim,

VS.
STATE FARM INSURANCE COMPANY,

CERTIFIED
- COMPRESSED-
COPY

Defendant and Plaintiff in Counterclaim
and third – Party Plaintiff- In- Interpleader,

CIVIL ACTION

FILE NO. 04-A- 5606-5
VS.
CARL BOSTIC d/b//a Affordable HOME IMPROVEMENT, GOODMAN–GABLE- GOULD/ ADJUSTERS INTERNATIONAL, AND REGIONS MORTGAGE, INC.,
Third – Party Defendants- In- Interpleader.

DEPOSITION OF
SHELLIELLE NANAN

August 5, 2005
1: 50 p.m.

Swift, Currie, McGhee & Hiers
1355 Peachtree Street, N.E
Suite 300
Atlanta, Georgia

Kimberley Stewart, RPR, CCR- B
TIFFANY ATA ALLEY
Certify reporters
400 Perimeter Center Terrace, Suite 900 Atlanta, Georgia
770- 343- 9696 800 808- 4958 770 343 8430 fax
www.tiffanyalley.com.

APPENDIX O

Title 18 > Part 1> Chapter 79§ 1621

Perjury in General

Whoever,

(1) Having taken an oath before a competent, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, certify truly, or that any written testimony, declaration, or certify by him subscribed, is true, willfully and contrary to such oath states or subscribes any material which he does not believe to be true, or

(2) In any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 or title 28, United States Code, willfully subscribes as to any material matter which he does not believe to be true;

Is guilty of perjury, and shall except as otherwise expressively provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

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(2)

No. 06-1693

FILED
JUL 2 0 2007
OFFICE OF THE CLERK
SUPREME COURT, U.S.

In The

Supreme Court of the United States

MAHABIR NANAN, *et ux.*,

Petitioners,

v.

STATE FARM FIRE AND CASUALTY COMPANY,

Respondent.

On Petition For Writ Of Certiorari To The Georgia Court Of Appeals

BRIEF FOR RESPONDENT STATE FARM IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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OR CALL COLLECT (402) 342-2831

QUESTIONS PRESENTED

There are no questions properly before this Court.

RULE 29.6 STATEMENT

State Farm Fire and Casualty Company is a wholly owned subsidiary of State Farm Mutual Auto Insurance Company.

OPINIONS AND ORDERS

The Order of the Georgia Court of Appeals remanding the case to the trial court for a complete record is reproduced at Pet. App. 9a. The Georgia Supreme Court Order denying *certiorari* is at Pet. App. 14a. The Georgia Court of Appeals ruling on the merits of Petitioners' appeal is reported ___ Ga. App. ___ (Case no. A07A0119, decided June 29, 2007). (Resp. App. 1).

JURISDICTION

This Court lacks jurisdiction over this matter, as the petition does not meet the jurisdictional requirements of 28 U.S.C. § 1257(a) for *certiorari* to state courts.

STATEMENT OF CASE

Petitioners' brief in support of their petition alleges sweeping facts that are scandalous, irrelevant, and prohibited by Supreme Court Rule 24(6). Petitioners' facts are therefore not worthy of response, and are entirely disputed.

Petitioners' current claims arise out of a trial judge's order dismissing their lawsuit against Respondent for failing to comply with court orders relating to discovery matters. Specifically, Petitioners' suit was dismissed because they failed to allow a court-ordered home inspection or appear for a court-ordered deposition. Petitioners appealed the trial judge's dismissal of their suit to the Georgia Court of Appeals, which docketed the case as A06A0916. Albeit untimely, Petitioners filed a brief on the

merits, to which State Farm responded. The Court of Appeals, however, remanded the case back to the trial court because a transcript of the hearing at which the trial court ordered Petitioners to comply with Respondent's discovery requests was not included in the appellate record. Petitioners then sought review of the Court of Appeals Order remanding the case to the trial court in the Supreme Court of Georgia, which denied *certiorari*.

Meanwhile, thirteen days after the Court of Appeals remanded case A06A0916, the record was completed and the case redocketed as A07A0119. The Georgia Court of Appeals has since ruled on the merits and denied Petitioners' appeal in A07A0119. (Resp. App. 1). Petitioners, in turn, have filed a Motion for Reconsideration in the Georgia Court of Appeals. Thus, two appellate records have been created in the same case: A06A0916, which is the petition brought before this Court in which there is nothing in the record; and A07A0119, which is the appeal with the completed record that was decided on the merits and is pending before the Georgia Court of Appeals on a motion for reconsideration.

The routine, procedural Order in A06A0916 remanding the case back to the trial court for a complete record is what Petitioners now submit for review before this Honorable Court. By so doing, Petitioners attempt to conflate review of this Order into a meritless attack against Respondent and the entire Georgia judicial system.

ARGUMENT

This Court has no jurisdiction over this petition because it is not a final judgment by the state's highest court as required by 28 U.S.C. § 1257. For this Court to have jurisdiction over a state court judgment, the judgment must be final as an effective determination of the litigation, and not of merely interlocutory or intermediate steps therein. *Pierce County, Wash. v. Guillen*, 537 U.S. 129, 140, 123 S. Ct. 720 (2003). The state court judgment "must be final in two senses: it must be subject to no further review or correction in any other state or tribunal; it must also be final as an effective determination of the litigation . . . it must be the final word of a final court." *Jefferson v. City of Tarrant, Ala.*, 522 U.S. 75, 81, 118 S. Ct. 481 (1997).

The current petition is based on a non-final judgment. The Georgia Court of Appeals Order in case A06A0916 simply remanded the case to the trial court so that a transcript could be included in the record. It did not end the litigation. Rather, it remanded so that the case could be decided on the merits because there was nothing reviewable in case A06A0916. Indeed, once the record was complete, the case was redocketed as A07A0119, and proceeded to a final determination by the Court of Appeals. Thus, the Order in case A06A0916 on which review is sought is not the "final word of a final court." *See Jefferson*, 522 U.S. at 81. This Court is therefore without jurisdiction to decide this matter.

CONCLUSION

The petition does not seek review of a final judgment from the state's highest court as required by 28 U.S.C. § 1257. Accordingly, this Court is without authority to entertain Petitioners' petition for writ of *certiorari*.

Respectfully submitted,

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SECOND DIVISION
JOHNSON, P. J.,
PHIPPS and MIKELL, JJ.

June 29, 2007

In the Court of Appeals of Georgia

A07A0119. NANAN et al. v. STATE FARM INSURANCE COMPANY.

PHIPPS, Judge.

Mahabir and Shellielle Nanan sued State Farm Fire and Casualty Company for failure to pay a claim they made under their homeowners' insurance policy. State Farm denied the claim because of the Nanans' failure to comply with certain provisions of the policy. The state court dismissed the Nanans' complaint because of their refusal to comply with the court's discovery orders. The Nanans have filed this pro se appeal. Because they have failed to carry their burden of showing error in the judgment appealed, we affirm.

The Nanans brought this suit against State Farm on June 18, 2004, seeking $190,787.28 in damages based on State Farm's failure to compensate them for losses caused by a fire to their home. State Farm answered the complaint on July 16, asserting numerous defenses based on the Nanans' non-compliance with provisions of the policy by failing to submit a signed, sworn proof of loss with supporting documentation and by refusing to make their home available to State Farm for inspection.

It appears from the record that on December 22, State Farm filed notices to take the Nanans' depositions and to inspect their home. But after receiving an objection from the Nanans, State Farm filed amended notices scheduling

the inspection for January 10 and the depositions for January 11. According to State Farm, the inspection did not take place because the Nanans did not permit entry into their home on January 10 and failed to appear for their depositions the next day.

After conducting a hearing on State Farm's motion to compel in April 2005, the trial court entered an order in May compelling the Nanans to appear for the taking of their depositions on or before May 27 and to permit their home to be inspected by State Farm prior to the taking of their depositions. The order also provided for the imposition of sanctions, including dismissal of the Nanans' complaint, if they failed to comply. State Farm duly filed notices to take the Nanans' depositions and inspect their home in conformity with the time frame in the court's order. But this time the Nanans informed State Farm, both in writing and in a telephone conversation, that they would not be available to permit inspection of their home or to appear for their depositions until June. Yet after counsel for State Farm informed the court reporter and other parties that the depositions had been cancelled, the Nanans appeared at his office at the time for which the depositions had been scheduled.

On May 31, State Farm filed a motion seeking dismissal of the Nanans' complaint as a sanction for noncompliance with the court's discovery order. After the Nanans filed various counter motions, a hearing was conducted in July. At the hearing, the court ordered the Nanans to make their home available for inspection on August 1 and to appear for their depositions on August 5. The court carefully explained to the Nanans that it was giving them one last chance to comply with State Farm's discovery requests and that no additional changes in the

scheduling of their depositions or home inspection would be permitted without court order. In conformity with the court's order, State Farm filed notices to take the Nanans' depositions and inspect their home at the times specified by the court.

On August 2, State Farm filed a motion for sanctions on the ground that, without having obtained any protective order, the Nanans had refused to allow their home to be inspected on August 1. In support of its motion, State Farm submitted a copy of an objection to the inspection that it had received from the Nanans and an affidavit containing sworn testimony by State Farm's counsel. On August 10, State Farm filed a supplemental motion for sanctions on the ground that the Nanans had not appeared for the depositions on August 5. The supplemental motion was also supported by counsel's affidavit, among other things.

The Nanans filed a response to State Farm's motions, alleging that they had appeared for their scheduled depositions and denying State Farm's claim that they had refused to make their home available for inspection. Appended to the Nanans' response were various exhibits, such as an unsigned court order prohibiting State Farm from conducting the inspection of the Nanans' home. But none of the exhibits supported the allegations in the response. The court later entered an order dismissing the Nanans' complaint with prejudice because of their unjustifiable failure to comply with the court's order.

The Nanans filed a timely notice of appeal. Because a copy of the transcript of the July 2005 hearing was not included in the appellate record, we remanded the case to the trial court so that a complete record could be prepared

and the appeal re-docketed. Apparently dissatisfied with the remand, the Nanans filed a petition for writ of certiorari that the Supreme Court of Georgia denied. Meanwhile, the record was completed and the case re-docketed, after which the Nanans filed a motion to dismiss the appeal. We treated that motion as a motion to withdraw the appeal, and we granted it. The Nanans, however, filed a brief objecting to that, so we entered an order vacating the withdrawal order and reinstating the appeal.

1. The Nanans claim that, contrary to the trial court's finding, they were in fact deposed on August 5. By sworn affidavit, however, counsel for State Farm has averred otherwise. And the Nanans have presented no affidavits or any other evidentiary material contradicting counsel's testimony. State Farm, therefore, carried its burden of showing that the Nanans did not appear for their depositions. And the Nanans have not carried their burden of showing by the record that the court erred in finding otherwise.[1]

2. The Nanans contend that the court erred in dismissing their complaint as a sanction for noncompliance with the discovery order without first conducting a hearing.

> [I]n essence, what the law contemplates under OCGA § 9-11-37 is a two-step proceeding before the ultimate sanction of dismissal . . . may be imposed. First, a motion to compel must be filed and granted; second, after the party seeking sanctions notifies the court and the obstinate

[1] See, e.g., *Wimbley v. Washington Mut. Bank*, 271 Ga. App. 477, 478 (610 SE2d 124) (2005).

> party of the latter's failure to comply with the order granting the motion to compel and of the moving party's desire for the imposition of sanctions, the trial court may apply sanctions after giving the obstinate party an opportunity to be heard and determining that the obstinate party's failure to obey was willful.[2]
>
> (T)he trial court need not conduct a hearing on the issue of wilfulness in every case. Such a requirement serves no purpose where the trial court can otherwise determine wilfulness on the part of the party against whom the sanctions are sought. For example, in a case where a trial court has already conducted a hearing on a prior motion to compel, the record may already contain enough evidence of the obstinate party's willful behavior that any hearing on the issue of willfulness would simply be duplicative.[3]

The record here amply shows the Nanans' willful noncompliance with the court's May and July 2005 discovery orders after they had appeared at hearings that preceded entry of each order. State Farm filed motions for sanctions for the Nanans' noncompliance with the latter order, and the Nanans filed their responses. Viewing the motions, the responses, and the material supporting each, the court, without conducting yet another hearing, was authorized to find the Nanans in willful noncompliance

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[2] *McConnell v. Wright*, ___ Ga. ___ (Case No. S06G2026, decided April 24, 2007) (citation and punctuation omitted).

[3] Id. (citations and punctuation omitted).

with the court's final discovery order and to dismiss their complaint.[4]

3. The Nanans charge the trial court with error in dismissing their complaint during the pendency of a motion they had filed for recusal of the trial judge.

The Nanans filed their recusal motion after the July 2005 hearing. In the motion, they complained of the court's bias and prejudice toward them. But those claims find no support in the record. Moreover, the motion was not supported by any affidavits. And the motion, not filed until July, alleged grounds for disqualification that the Nanans would have first learned of in May. As such, the motion was neither timely nor legally sufficient.[5] Therefore, the court did not err in disregarding the motion and continuing to act upon the merits of the case.

4. The Nanans complain of State Farm's failure to abide by rules in OCGA §§ 9-11-34 and 9-11-26 in making its requests for inspection of their home. The Nanans have not, however, carried their burden of showing by the record that State Farm committed any rule violations. Nor does the record reflect any objections by the Nanans to any of State Farm's discovery requests on any of these grounds.

5. Similarly, there is no support in the record for the Nanans' complaint that the court forced them to prosecute this case without representation by counsel.

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[4] See generally *Woods v. Gatch*, 272 Ga. App. 642 (613 SE2d 187) (2005).

[5] See Uniform Superior Court Rule 25.1-25.3.

Judgment affirmed. Johnson, P. J., and Mikell, J., concur.

NO. 06- 1693

IN THE

UNITED STATES SUPREME COURT

MAHABIR & SHELLIELLE NANAN

Petitioners

v.

STATE FARM FIRE & CASUALTY COMPANY

Respondent

ON PETITION FOR WRIT OF CERTIORARI
TO THE GEORGIA COURT OF APPEALS

PETITIONERS SUPPLIMENTAL BRIEF

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JURISDICTION

This supplemental brief is hereby filed by Petitioners, calling this Courts attention to new intervening issues relating to matter currently on certiorari before this court. Jurisdiction is invoked pursuant to Supreme court Rule 15(8).

STATEMENT OF NEW ISSUES

Petitioners filed a petition for a writ of certiorari with this court, docketed in court record as Case # 06-1693. Respondents State Farm filed their opposition to Petitioners petition on or about 07-20-07, introducing new issues which are irrelevant to the matter on appeal. Due to the perplexity and substantial unethical conducts regarding the contents of Respondents written response to this Court, Petitioners has uncovered new issues worthy of this Court's intervention and now exercises their rights under Governing Supreme Court Rule, 15(8), hereby files this supplementary argument before this court requesting the Courts intervention.

Pursuant to Supreme Court Rules 8 and 8(2), at the courts own discretion, this court has the judicial power to enter an order disbarring any member of the Bar of this court whom engages in actions contrary to the rules and laws of this court, or other

dishonest conduct, and affording said member an opportunity to show cause within 40 days, if material issues are in dispute, why disbarment should not be entered, and at the conclusion of such inquiry, apply disbarment and or any disciplinary action or sanctions deemed appropriate.

ARGUMENT OF FACT

The conduct of Respondents attorneys is prohibited by law, they have involved it acts of fraudulent misconduct resulting from their written response to Petitioners Petition for certiorari, filed with this court. The violations are severe and cannot be ignored, as it materially affect the outcome of certiorari pending before this court, and for those essential reasons, Petitioners seek the courts intervention into the matter;

(1) Perjury /False Pleading before this Court.

(2) Misrepresentation of the facts and laws.

(3) Fraud /Mail Fraud by utilizing United States Postal Service to Convey the Fraudulent acts.

(4) Falsely and knowingly submitting and filing unlawful material evidence with this court. (Respondents Appendix 1).

(5) Conspiring with lower court justices to hinder due process of law and other serious violations relating to this issue.

(6) False attempt to obtain relief against Petitions by dishonest practice

(7) Obstruction of justice.

(8) Willful violations of the Code of Judaical Conduct and judicial oath.

(9) Willful infliction of undue hardship and burden upon Petitioner.

(10) Willful Violations of Petitioners Constitutional Rights.

1. FALSE PLEADING PERJURY MISREPRESENTATION OF FACTS AND LAWS AND THE UNLAWFUL SUBMISSION OF FRAUDULENT EVIDENCE

One of the most grievous violations and profound unethical misconduct on the part of Respondents State Farm, is their attorney's involvement in the filings of fraudulent pleading, willful act of perjury, misrepresention, and submission of fraudulent evidence before this court, an act which is stringently prohibited by the doctrine of law, especially , at the

hands of officers of the court. The Respondents entire argument before this court is based on falsity and deception, as a matter of fact, the Respondent attorney's has demonstrated such unlawful practices repeatedly at the lower courts level, and have succeeded. However, because the lower courts upholds such unlawful conduct, Respondents were privileged in displaying those identical deceitful acts before the United States Supreme Court with willful intent to trick, deceive, ultimately obtaining false relief by acts of dishonesty. Thus, as a matter of law, such lawlessness cannot be ignored by this honorable court.

The law defines perjury as, "The act of willful and knowingly stating a material falsehood under oath **or in any affirmation in a judicial** proceeding. Misrepresentation is defined as "falsification of a material fact or law that is essential to the outcome of a judicial proceeding".

In violation of United States Criminal Code, Title 18 Sec.1623 (False Pleading before a Court), Attorney Dietrich willfully, proceeded with the acts of fraudulent pleadings with this court, denying Petitioners were deposed at a deposition which occurred at the attorney's own law-office on 08-05-05. In conjunction to full knowledge deposition occurred, attorney Dietrech was counsel of record at the time deposition occurred declaring

the falsification material, as it undermines and contradict Petitioners argument on certiorari that Petitioners were deposed by Respondents. The conduct of attorney Dietrich, unethically violated the laws and criminal Codes of not only the state of Georgia but also Washington Washington DC, where the false pleading was filed. However, the most presumptuous, act of perjury is Respondents denial of deposition, even at the point Petitioners obtained and filed proof of deposition with this court, such acts is willful and fraudulent, as said deposition was ordered, payed for, and conducted by the attorneys own law-firm. Once again, re-produced and affixed hereto as Appendix 1.

The conduct of the attorney herein, is a profound violation of law and cannot be overlooked as Attorney Dietrich cynical disrespect for the integrity of law and the rules of this court must be accountable as the severity of the violation, aggravated the Criminal Codes and Statues of multiple states.

2. **FRAUD MAIL FRAUD KNOWINGLY FILING ILLIGAL EVIDENCE IN COURT RECORD IN AN EFFORT TO OBTAIN RELIEF AGAINST PETITIONERS DISHONESTLY**

In their written response to this court, Respondents State Farm's attorney's fraudulently conspired and engages in unlawful submission and filing of illegal court rulings/ decision with this court, (Respondents Appendix 1), was perfected by justices of the Second Appellate Division of Georgia, resulting from a bogus appeal case, that not only irrelevant to the issue on appeal but fraudulent. Respondents effort was clearly aimed at obtaining false relief against Petitioners with the influence of the Appellate Court of Georgia herein, as Respondents attorneys fully aware of the illegalities associated with the rulings but proceeded with the fraudulent filings regardless of its legal constriction. Attorney Dietrich is also aware that the laws of our land prohibited our courts from utilizing the administration of law to issue fraudulent court rulings . §O.C.G.A. 5-6-10 Georgia, mandated law, prohibits Respondent (Appendix 1), as the content of the order was not written on the legal stationary of the Appellate court. The official seal of the Appellate Court of Georgia, signature and verification by the Appellate Court was also deliberately omitted, clearly constituting judicial conspiracy, fraud, obstruction justice, violation of due process rights, and to confuse the issue before this court, which could ultimately, resulted in false relief in the interest of Respondents.

U.S.C Title 18, Part 1, Chap. 63, Sec 1346 and 1341 "Mail Fraud" clearly explains the conduct of attorney Dietrich, as he knowingly utilizes the United States Postal Services to willfully perfect the fraudulent acts, violating the very laws he avowed to uphold the integrity thereof, willfully, proceeded with the filings of fallacious submission of false evidence and pleading with this court, with clear intent to defraud, influence, and obtain relief in bad faith.

3. **CONSPIRING WITH LOWER COURT JUSTICES TO HINDER AND OBSTRUCT DUE PROCESS OF LAW VIOLATING THE CODE OF JUDICIAL ETHICS AND JUDICIAL OATHS AND THE WRONGFUL INFLICTICTION OF UNDUE BURDEN UPON PETITIONERS A PRO-SE LITTIGANTS**

The unlawful conduct of the Respondents herein was executed with the assistance and influence of justices of the Second Appellate devision of Georgia, in an act of judicial conspiracy which is prohibited by law. U.S.C. Title 18, Part 1, Chap. 73, §1515, defines obstruction of justice;

"In a official proceeding before a court, anyone who

knowingly makes false statement, intentionally conceals a material fact and thereby creates a false impression by such statement, knowingly submit in writing that is false or lacking authenticy is guilty of Obstructing justice, which constitutes criminal violation of law. Judicial conspiracy is an agreement between two or more persons, to commit an illegal act or to achieve a legal objective through illegal means." which is a violation of the cannons of ethics because it tends to use the prestige of the judges office to perfect such unethical achievements. Respondents (Appendix 1.) and the irrelevant appeal case A07A0119 produced by Respondents with their filings to this court, was perfected as a result of a fictitious and empty appeal case, under which no notice of appeal, remittitur, legal argument, enumeration of error, motions, or brief was filed. There was no merit under which any legal court or its justices could render a legal binding decision. As a matter of fact, the justices involved in the conspiracy perfected the bogus appeal case among many other violation also to obstruct and hinder this court from rendering a decision on the merit of certiorari currently before this court, thus, constituting serious violations and profound abuse of judicial authority in official capacity of

law Respondents State Farm, on the contrary, knowingly submitting and files the contents of said illegal documents with this court, with full awareness of its falsity.

Most erroneously, the justices involved in the conspiracy, joined with Respondents, denying deposition occurred, also denying material evidence was filed in court record by Petitioners despite court record reveals indisputable, such evidence were filed redundantly. The unethical conduct of the justices herein was deliberately aimed at interfering with due process, as the justices fully aware that the written comments of judges are favorable in our courts , placing Petitioner in an awkward position before this court to defend fraudulent allegations, not only those orchestrated and filed by Respondents State Farm, but Ministers of Justices whom duties were to uphold the integrity of the laws of the state of Georgia and not violate it.

In the written ruling of 06-29-07, (Respondents Exhibit 1) said justice substantially violated Petitioners civil rights, personally attacked Petitioners, in direct violation of the code of ethics, alleging extra judicial statements, fully aware that such comments seriously impaired the fairness of the of their action,

but displayed such biasness regardless and further utilizes the legal administration of justice as a staging ground to conduct fraudulent acts in the best interest of Respondents, a major Corporation.

Thus,Title 18, U.S.C Section 241, Conspiracy against Rights and Title 18 U.S.C Sec, 242, "Deprivation of Rights Under color of Law" stringently prohibits the conduct of the exhibitors herein, declaring such act a federal crime for anyone acting under color of law involved in such lootsome deprivation of litigants civil rights. When confronted with these serious issues, Respondents attorney accuses Petitioners in their written response response to this court of launching a vicious attack on the entire Georgia judicial system, once again, constitutes false pleading. Our prejudicial officers are held to the highest standards of integrity and must conduct judicial responsibilities in compliance with the ethical rules of law.

The Code of Judicial Conduct and judicial oats, strictly prohibits the conduct of the justices and attorney's involved, their unethical conduct substantially desecrated the law, therefore . Brings the judicial administration into disrepute. As a matter of law,Cannon 3 of the Code of Judicial Conduct, compels a Judge or Attorney to report unlawful conducts or any act which poses

a substantial question, to the state Bar, and or any appropriate division of law but in this case, the exhibitors conspired together to inflict tremendous acts of cruelty, violations of law and constitutional rights, hinder/ obstruct justice, before this court, which is an abomination to the rules of law.

In conclusion, Petitioners urged this court to intervene in this matter requiring Respondents to account for the serious violations herein, in order to be fair to all parties, it is imperative that a fact finding hearing be held, ordering Respondents to show cause before this court, in order to be reasonable sure that the integrity and the rules and laws of this court is preserved. The conduct of Respondents not only desecrated the laws of the state of Georgia, Washington DC, but also the criminal codes and statues, and cannot be entertained by any court of law and justice. In the case of National Hockey League v. Metropolitan Hockey Club, 427 U.S 639 (1976) false Pleading/ sham was prohibited, also, the law awards expenses to litigants when the opposing party acts in bad faith, as demonstrated in Roadway Express, Inc V. Piper 447, U.S 752 (1980) and Hall V. Cole 412 U.S 1,5 (1973). The unlawful conduct of Respondents herein, materially affect

the outcome of certiorari pending before this court as it the willful act of fraudulent pleading, deliberate concealment and production of fraudulent evidence, judicial conspiracy, etc. Petitioners moves this honorable court to intervene; due to the severity of this matter, convening a hearing, affording Petitioners and Respondents the rights to appear before this court and to enter into evidence documents and or proof that are in dispute, as it materially effects the outcome of a impartial decision from this court. At the conclusion of such inquiry, an order of disbarment and other sanctions should be entered against Respondents, holding accountability for the willful violation of the rules and laws of multiple states, and the Code of Judicial Conduct and oath of law.

Respectfully, submitted this 17 th day of August 2007.

Shellielle Nanan /for Petitioners

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PET. APP. 1

IN THE STATE COURT FOR THE COUNTY OF COBB

STATE OF GEORGIA

MAHABIR AND SHELLIELLE NANAN,
Plaintiffs and Defendants in Counter Claim,

Vs.
STATE FARM INSURANCE COMPANY,

CERTIFIED - COMPRESSED COPY

DEFENDANT AND PLAINTIFFS IN COUNTERCLAIN
and third – Party Plaintiff – in – Interpleader

CIVIL ACTION

FILE NO. 04- A- 56065
V.S
CARL BOSTIC d/b/a Affordable Home improvement, GOODMAN- GABLE- GOULD/ ADJUSTERS INTERNATIONAL AND REGIONS MORTGAGE, INC.,
Third – Party Defendants- in Interpleader.

DEPOSITION OF
SHELLIELLE NANAN

August 05, 2005
1: 50 pm

Swift, Currie, McGhee & Hiers

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TO BE RECOVERED

7-27-2007

(4)

NO. 06- 1693

IN THE

SUPREME COURT OF THE UNITED STATES

MAHABIR NANAN

SHELLIELLE NANAN

Petitioners

v.

STATE FARM FIRE & CASUALTY COMPANY

Respondents

ON PETITION FOR A WRIT OF CERTIORARI

PETITIONERS REPLY BRIEF

SHELLIELLE NANAN
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No. 06- 1693

IN THE

SUPREME COURT OF THE UNITED STATES

MAHABIR AND SHELLIELLE NANAN

Petitioners

V.

STATE FARM FIRE & CASUALTY

Respondents

PETITIONERS REPLY BRIEF

COMES NOW, Petitioners and pursuant to Supreme court Rule 15 hereby files this response to Respondents opposition to Petitioners petition for a writ of certiorari, currently pending before this court and shows this honorable court the following facts and laws;

(1). Respondents State Farm failed to addressed the material important issues currently on certiorari by Petitioners. Instead of addressing the relevant issue, as required pursuant to Rule 15

of the Appellate Court, Respondents deliberately ignored the merits of the case, unlawfully introduced fresh allegations that are unsubstantiated and can neither be supported by fact or law. As a matter of fact, Respondents entire argument is vague, ambiguous no reasonable Petitioner or court can lawfully frame a proper response or meritorious finding. For example, on the cover page of Respondents opposition brief, the petition was captioned 06-1693 which represents the issue on appeal but their entire argument failed to address the issues consistent with said petition, instead, Respondents introduced new allegations, citations, and re-produced document captioned that represents a completely different appeal case **AO7A0119**, which is not the issue on certiorari. Furthermore, because AO7AO119 is irrelevant to this matter, legal argument on an a divergent, illegitimate, case is contrary to the rules of this court and not ripe for argument. Argument pertaining to this issue was taken with the Supreme court of Georgia as it is a separate issue, requesting dismissal of the un-lawful matter, therefore, as Respondents willfully violated Supreme court Rules 15 and 24, the law requires this court to strike or disregard Respondents entire petition as it violated the rules of this court. In all legalities, Respondents never respond to Petitioners petition.

(2). Supreme Court Rules 15 requires a Respondent to accurately plead in their opposition, brief, in plain terms, legitimate factual reasons why this court should deny certiorari, and clearly address any perceived misstatement of fact or law in the petition that bear on what issue properly would be before the court if certiorari was granted. Once again, Respondents did not abide by these rules, instead, Respondent ill-definely alleged unjustified allegation that Petitioners violated Appellate Court Rule 24 (6). An allegation Petitioners affirmatively denied. Respondent further informed the court in their jurisdiction statement contained on page 1 of their brief "This court lacks jurisdiction over the matter because it is not a final judgment." Petitioners affirmatively denied such assertions and would like to point out the fact that in Respondents own written response to this court, they have vaguely admitted to this court

(a) Petitioners law-suit was dismissed from the trial court and that an appeal was initiated with the Appellate court of Georgia.
(b) They have also admitted to this court on page 3 of their brief, Court of Appeals dismissed the original case **A06A0916** which is the subject matter of this appeal. An act Petitioners long argued violated § O.C.G.A.5-6-48 (d) and §O.C.G.A 5-6-30, as no pending case shall dismissed from Appellate court

missing a ruling on it's merit, especially when said case was pending before the court for a duration of 9 months. (c) Respondents further admitted to this court that a second appeal case containing an isolated appeal matter was perfected by the clerk of the appellate court herein, which did not represents the legal action of Petitioners, and as a result, Petitioners appealed the dismissal of the original appeal case with the Supreme Court of Georgia on certiorari, which was the final decision of the lower court. Respondents also did not dispute the fact that Petitioners petition before this court was perfected within 90 days after the issuance of Supreme court decision. After such divulging revelation, based on the written admissions of Respondents, any dispute as to jurisdiction of this court would deem blur and inconsistent . As a matter of law, Respondents citations of unrelated cases Pierce County Wash.V. Guillen , 537 U.S 129, 140, 123, S. Ct 720 (2003); Jefferson V. City of Tarrant, Ala., 522, U.S 75, 81, 118, S. Ct. 481 (1997) has no statutory bearings on the merits of this matter and cannot be considered legitimate by this court. Consequentially, as the Respondents continued to violate the rules and laws of this court and failed to frame statutory,legitimate, reasons why certiorari is unworthy, heretofore, any future argument from Respondents would be

barred by judicial estoppal. With all due respect, doctrine prevents a Respondent from adopting an inconsistent position from that which is taken to its advantage earlier to which was their own failure that created the controversy to continue such contrariness. As a matter of law, there are no current standing issue or objections before this court as to why certiorari should be denied.

3. One of the fundamental issue on certiorari before this court is the fact Respondents counsel violated multiple U.S criminal codes by deposing Petitioners at a court ordered deposition, while filing fraudulent pleadings with the lower courts, falsely denying Petitioners were deposed at their law office on 08-5-05, swearing falsely under oath, obstructing justice, tampering with material evidence, while utilizing the United States Postal Service to convey the fraudulent acts, also, obtaining relief against Petitioners under fraudulent pretenses. The law provides that a Petitioner or Respondent whom repeatedly failed to dispute serious material allegations under any circumstance, constitutes admissions on the part of the party whom failed to dispute. Not only have Respondents failed at the lower courts level, once again, they failed to frame any response to these serious allegations currently before this court. Instead of

responding to the allegations, Respondents violated Supreme Court Rules 8 and 8 (2) by continued to weave their web of falsity and now committed the unethical acts of false pleading, obstruction of justice, fraud, and mail fraud, before this court, a serious material violations of law, constituting abominable sins. Respondents unethical conduct has once again encompassed another valid reason as to why Respondents argument should be stricken from this court record and an inquiry regarding this issue be initiated by this court as this court has the jurisdiction under the governing Rules 8 to convene an hearing into the matter and apply disbarment and or any disciplinary actions deemed appropriate by the court.

LEGAL ARGUMENT BASED ON ILLIGITIMATE APPEAL CASE IS UNLAWFUL ESPECIALLY WHEN THE ORDER ON ITS FACE INVALID AND VIOLATES THE CODE OF JUDICIAL CONDUCT.

In addition to the above- mentioned request requiring Respondents entire argument be stricken from this courts record for willful violations of court rules and laws, Petitioners will clearly point out other reasons why Respondents appendix 1 cannot be considered by this court as a legal binding court order. (a) The alleged court decision is illegitimate as it was not perfected in compliance with Appellate Court Rules. (b)

Mandated laws of the state of Georgia and § O.C.G.A. 5-6-10 requires all court order/ decision from Court of Appeals to be consistent, bearing the legitimate seal of the court, signature, and verification of the clerk of the Appellate Court. (c) The alleged court order does not contained such statutory identities and therefore cannot be authenticated. As a a matter of law, any court order/ decision short coming of the rules of the state of Georgia and the Appellate court must be considered legally deficient, unlawful, null and void, and cannot be honored by any court of law and justice. In addition to these violations,the alleged court decision was entered on falsity and deception, in the presence of an empty case record in which no notice of appeal, brief, remittitur, or legal argument was filed. In term, there was no statutory merit under which any lawful court could perfect a fair and binding decision.

Meticulous review by this court will reveal clear evidence of biasedness, prejudice, discrimination fraud, at the hands of Ministers of Justices, as false allegations aimed as direct attack upon Petitioners despite the fact the allegations cannot be substantiated by court record, and although the justices initiated such unlawful position of re-inventing the facts, and laws of the state, they failed to address the issues brought on appeal by Petitioners. Court records will reveal indisputable

Petitioners never initiate or legally represent any appeal matter with the Court of Appeals captioned as **AO7A0119.**

The most grievous violations on the part of Ministers of justices of the **Second Appellate Devision of Georgia** is their involvement in direct conspiracy with Respondent State Farm, affirmatively denying deposition was conducted by counsel for State Farm and also denying Petitioners filed said proof with the court, despite the fact Petitioners maintained legal proof to substantiate such filings.

The code of judicial conduct Cannon 3 prohibits judges from commenting on cases when the justices knows that such comments is prejudicial and would materially affect the case, and to also refrain from demonstrating acts of biasness, prejudice, discrimination towards litigants, and further cautions "Judges who violates the Code of Processional Conduct violates the law and subject the administration to disrepute.

Likewise, attorneys has an affirmative obligation to accurately state the facts at all times, failure to so may result in contempt of court and or disbarment.

PETITIONERS RE-AFFIRMED THE IMPORTANCE THAT A WRIT OF CERTIORARI BE GRANTED IN THIS MATTER.

Petitioners re-affirmed the importance that a writ of certiorari be

granted in this matter to review the erroneous and un-constitutional decisions of the lower courts herein. Because Respondents failed significantly to address the material important issues on appeal, such refusal leave standing substantial material question that can

only be resolved through certiorari. However, If certiorari is denied, the constitutional laws and due process rights of litigants to appeal and to obtain relief through judicial process would be profoundly violated. The Georgia Constitution Art.1,Sub1, Para. V11, provides " No person shall be deprived the rights to prosecute or defend in person that persons own cause in any of the courts in this state. If the laws and constitution of our great land is disregarded it would sent the incorrect message to major corporations, high profile attorney's and corrupt judges, that it is safe to violate litigants civil rights because there are laws in place that will protect the un-just, while expose the righteous to indignity, disappointments, discrimination, judicial abuses in official capacities, and lawlessness.

The constitution of the United States provides "No person shall deny equal protection of the law and the rights to due process of law". It is fundamentally important that this court manifest justice in order to protect litigants rights and interest before the

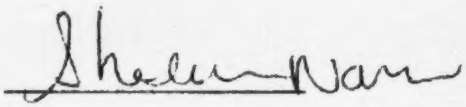
court.

Since this is Petitioners final recourse for relief and justice, should this court deny the Petition, there would be no other alternative and Respondents would prevail by dishonest means, as they did at the lower courts level. Correctively, this court has the jurisdiction to apply the "Golden Rules" as mandated by the laws and constitution of the United States. " Legislative acts in violation of the constitution of Georgia and the United State are void and the judiciary shall so declare them."; "After they take effect, the laws of the land are obligatory upon all the inhabitants thereof. Ignorance of the law excuses no one

In conclusion, the facts must be abundantly clear, the only legitimate issue currently standing before this court is a ruling on lower court **AO6A0916,** any other issues are irrelevant.

Respondents attempted to confused this court by producing appendix and other unlawful issues which is prohibited by the laws of our courts, not including Respondents willful act to deter this court from issuing a fair ruling on the merit of the case. This court is a court of law and justice and must hold Respondents accountable for their un-governable acts. Petitioners once again moves this honorable court to enter an order granting certiorari, which is the solely statutory reasonable reasonable and statutory solution in this matter.

Respectfully, submitted this 27th day of July 2007.



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